

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DEVIN BRAMHALL,

Plaintiff,

VS.

CHARLES DELSANDRO, LOGUE,
POSKA, PLETCHER, ALBRIGHT,
UNIDENTIFIED CORRECTIONAL
OFFICER #1, UNIDENTIFIED
CORRECTIONAL OFFICER #2,
HALKIAS, ERIC ARMEL, MARK
CAPOZZA, T. FISHER, ELIZABTH
RUDZIENSKI, R. HAWKINBERRY, J.
DONGILLI, D. SCHERER, KERI
MOORE, DORIS VARNER, and
UNIDENTIFIED CORRECTIONAL
OFFICER #3,

Defendants.

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) No. 2:22-cv-1328
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) District Judge Robert J. Colville
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) Magistrate Judge Cynthia Reed Eddy
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ORDER OF COURT

Before the Court is the Honorable Cynthia Reed Eddy's November 15, 2023 Report and Recommendation (ECF No. 44), which recommends that the Motion to Dismiss (ECF No. 24) filed by Defendants Varner, Moore, Armel, Hawkinberry, Dongilli, Poska, Logue, Scherer, Albright, Delsandro, Pletcher, Halkias, Rudzienski, Fisher, and Capozza (the "Corrections Defendants") be granted in part and denied in part. The Corrections Defendants' objections to the Report and Recommendation were due by November 30, 2023. Plaintiff's objections to the Report and Recommendation were due by December 4, 2023. No objections were filed. Accordingly, this matter is ripe for disposition.

“The Federal Magistrates Act provides two separate standards of judicial review of orders on matters referred to magistrate judges.” *Alarmax Distributors, Inc. v. Honeywell Int’l Inc.*, No. 2:14-cv-1527, 2015 WL 12756857, at *1 (W.D. Pa. Nov. 24, 2015) (citing 28 U.S.C. § 636(b)(1)). A district court reviews objections to a magistrate judge’s decision on non-dispositive matters to determine whether any part of the order is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). Objections to a magistrate judge’s disposition of a dispositive matter are subject to de novo review before the district judge. 28 U.S.C. § 636(b)(1)(B)-(C); Fed. R. Civ. P. 72(b)(3). The reviewing district court must make a de novo determination of those portions of the magistrate judge’s report and recommendation to which objections are made. *Id.* Following de novo review, “[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3). The United States Court of Appeals for the Third Circuit has explained that, “even absent objections to the report and recommendation, a district court should ‘afford some level of review to dispositive legal issues raised by the report,’” and has “described this level of review as ‘reasoned consideration.’” *Equal Employment Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (quoting *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)).

Upon reasoned consideration of the record in this matter, the Court agrees with the thorough and well-reasoned analysis set forth in Judge Eddy’s Report and Recommendation, and the Court accepts and adopts Judge Eddy’s Report and Recommendation in its entirety as the opinion of the Court in this case. The Corrections Defendants’ Motion to Dismiss is granted in part and denied in part. All official capacity claims against Corrections Defendants T. Fischer (Claim 3), Elizabeth Rudzieriski (Claim 3), and Mark Capozza, Eric Armel, Keri Moore, and Doris

Varner (Claim 6) are dismissed with prejudice. All claims against Corrections Defendants R. Hawkinberry, Eric Armel, Mark Capozza, Keri Moore, and Doris Varner are dismissed with prejudice due to Plaintiff's failure to plead facts respecting personal involvement. The Motion to Dismiss is denied in all other respects.

BY THE COURT:

s/Robert J. Colville
Robert J. Colville
United States District Judge

DATED: December 11, 2023

cc: The Honorable Cynthia Reed Eddy

Counsel of Record

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